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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,273	11/04/1999	ANTONIUS A.C.M. KALKER	PHN-17.317	6551

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

SMITHERS, MATTHEW

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/423,273

Applicant(s)

KALKER, ANTONIUS A.C.M.

Examiner

Matthew B. Smithers

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6-13, 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Claim 16 was added.

Claims 1-4 and 6-16 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 14 does not fall within one of the four statutory classes of an invention (method/process, article of manufacture, a composition of matter, or machine). First, a signal is not a series of steps. Therefore, the claimed information signal does not fall within the class of a method. Second, the claimed information signal is a form of energy and not a composition of matter. A "composition of matter" covers all compositions of two or more substances and includes all composite articles, whether they be results a chemical union, or of a mechanical mixture, or whether they be gases, fluids, powders or solids. Because the information signal is a form of energy and not matter as described previously, the signal is not considered to be a composition of matter that falls within that particular statutory class of an invention. Finally, each of the other two classes of an invention require a physical structure. A claimed signal does not have any physical structure, does not itself perform any useful,

concrete and tangible result and thus does not fit within the definition of a machine or an article of manufacture. Therefore claim 14 is deemed non-statutory.

Allowable Subject Matter

Claims 1-4, 6-13 and 15-16 are allowed.

The following is an examiner's statement of reasons for allowance: The present invention is directed to a method for embedding and detecting auxiliary data in an information signal. Independent claims 1, 11 and 15, each recite "shifting predetermined watermark patterns over a vector, the respective vector being indicative of auxiliary data and embedding the shifted watermark patterns in the information signal". Independent claims 6 and 12, each recite "detecting one or more embedded watermarks (W2e); determining a vector by which each detected watermark is shifted with respect to a predetermined watermark and retrieving said auxiliary data from said vector." The closest prior art, Petrovic (U.S. 6,427,012) and Nakamura (U.S. 6,185,312) disclose a conventional method for embedding and detecting auxiliary data in an information signal fails to anticipate or render the above underlined sections obvious.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew B. Smithers whose telephone number is (571) 272-3876. The examiner can normally be reached on Monday-Friday (8:00-4:30) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel L. Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Matthew B Smithers
Primary Examiner
Art Unit 2137